

# RETURN

(78)

To an ADDRESS of the HOUSE OF COMMONS, dated the 30th March, 1903, for copies of all Orders in Council, correspondence, despatches and documents relating to the disallowance by the Governor in Council of Statutes of the Province of British Columbia during the past five years.

R. W. SCOTT,  
Secretary of State.

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## DOCUMENTS RELATING TO THIS SUBJECT PREVIOUSLY PRESENTED.

### *Sessional Paper No. 110, 1899—Printed.*

Documents relating to the recent disallowance of certain statutes passed by the legislature of British Columbia.

Presented June 7, 1899.

### *Sessional Paper No. 110a, 1899—Not printed.*

Further documents relating to the recent disallowance, etc., etc.

Presented June 21, 1899.

### *Sessional Paper No. 157, 1900—Not Printed.*

Return to an address of the Senate, March 1, 1900, of copies of all Orders in Council disallowing Acts passed by any of the legislatures of the provinces or by the legislative assembly of the North-west Territories, since August 1, 1896, together with all correspondence between the federal and any of the provincial governments relating to any suggestion of changes or amendments to any local Act, and the action taken thereon.

Presented June 6, 1900.

### *Sessional Paper No. 67, 1902—Not Printed.*

Return to an address of the House of Commons, dated February 19, 1902, for copy of all papers and correspondence relating to the disallowance of chapter 11 and 14 of Statutes of 1900, province of British Columbia, viz. : 'An Act to regulate Immigration into British Columbia,' and 'An Act relating to the employment on works carried on under franchises granted by private Acts.'

Presented March 17, 1902.



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## RETURN No. 78, 1903.

EXTRACT from a Report of the Committee of the Honourable the Privy Council,  
approved by the Governor General on January 25, 1903.

The Committee of the Privy Council have had under consideration a report, hereto annexed, from the Minister of Justice respecting the statutes of the Legislatures of the several provinces and the North-west Territories passed at the recent sessions of these legislatures.

The Committee concur in the said report, and the observations and recommendations therein made, and advise that none of the Acts or Ordinances upon which the Minister of Justice has hereinbefore expressed his opinion be disallowed; and further advise that the substance of this report, so far as it relates to each province or the territories, be communicated to the Lieutenant Governor thereof for the information of his government.

All which is respectfully submitted for His Excellency's approval.

JOHN J. McGEE,  
Clerk of the Privy Council.

DEPARTMENT OF JUSTICE,  
OTTAWA, December 31, 1901.

*Legislation, 1901.*

To His Excellency  
The Governor General in Council.

The undersigned has had under consideration the statutes of the legislatures of the several provinces and the North-west Territories passed at the recent sessions of these legislatures, and has the honour to report thereon, as follows:—

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## BRITISH COLUMBIA.

*I Edward VII, 1901.*

These Acts were received by the Secretary of State for Canada on June 24 last. A separate report will be made upon the following chapters:—

Chapter 10. 'An Act to amend the "Companies" Act, 1897.'

" 25. 'An Act respecting the fisheries of British Columbia.'

" 32. 'An Act to authorize the loan of \$5,000,000 for the purpose of aiding the construction of railways and other public works.'

" 37. 'An Act to amend the "Inspection of Metalliferous Mines Act" and amending Act.'

" 46. 'An Act to provide for the collection of a tax on persons.'

" 65. 'An Act to amend "The Arrowhead and Kootenay Railway Company Act, 1898."'

" 68. 'An Act to incorporate the Chilcat and Klehini Railway and Navigation Company.'

" 69. 'An Act to incorporate the Coast-Kootenay Railway Company, Limited.'

" 70. 'An Act to amend the "Columbia and Western Railway Company Act, 1896."'



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Chapter 71. 'An Act to incorporate the Comox and Cape Scott Railway Company.'

" 72. 'An Act to incorporate the Crowford Bay Railway Company.'

" 77. 'An Act to incorporate the Imperial Pacific Railway Company.'

" 79. 'An Act to incorporate the Kootenay Central Railway Company.'

" 80. 'An Act to incorporate the Lake Bennett Railway Company.'

" 81. 'An Act to incorporate the Midland and Lake Vernon Railway Company.'

" 83. 'An Act to incorporate the Queen Charlotte Islands Railway Company.'

" 84. 'An Act to incorporate the Vancouver and Grand Forks Railway Company.'

" 85. 'An Act to incorporate the Victoria Terminal Railway and Ferry Company.'

" 86. 'An Act empowering the Corporation of the City of Victoria to lease the market building premises and otherwise carry into effect the "Victoria Terminal Railway By-law, 1900."'

" 87. 'An Act to incorporate the Yale Northern Railway Company.'

" 45. 'An Act respecting certain land grants.'

This Act recites that under the provisions of certain statutes of the province grants of land have been made from time to time to railway companies to aid in the construction of certain railways. That it was the intention of the legislature and of the government that the said grants should be subject to the provision of the 'Land Act' and its amendments and re-enactments, reserving to the Crown a royalty upon the timber and other wood, and conferring powers for the enforcement of the said royalty, and that it is desirable to specifically provide and declare that the said provisions of the 'Land Act' apply to lands granted as aforesaid. The statute proceeds to enact accordingly.

Objection to this statute has been made by Messrs. Bodwell and Duff, barristers, of Victoria, on behalf of the Nelson and Fort Sheppard, and Kaslo and Slocan Railway Companies upon the ground set forth in the letter of Messrs. Bodwell and Duff, of August 30 last, copy of which is submitted herewith.

The Deputy Minister of Justice, by direction of the undersigned, communicated this objection, with the correspondence, to the Attorney General of British Columbia, by letter of September 16 last, copy of which is submitted, together with copy of the reply received from the Attorney General. The undersigned does not deem it necessary to consider in detail the remarks of the Attorney General. He does not acquiesce in all of them, but the undersigned bases his refusal to recommend disallowance upon the fact that the application proceeds upon grounds affecting the substance of the Act with regard to matters undoubtedly within the legislative authority of the province and not affecting any matter of Dominion policy. It is alleged that the statute affects pending litigation and rights existing under previous legislation and grants from the province. The undersigned considers that such legislation is objectionable in principle and not justified unless in very exceptional circumstances, but Your Excellency's Government is not in any wise responsible for the principle of the legislation, and as has been already stated in this report, with regard to an Ontario statute, the proper remedy in such cases lies with the legislature or its constitutional judges.

Chapter 73. 'An Act to incorporate the Crow's Nest Southern Railway Company,' has already been reported upon.

*Vide* report of the undersigned, approved September 25 last.

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The undersigned recommends, therefore, that none of the Acts or Ordinances upon which the undersigned has hereinbefore expressed his opinion be disallowed, and fur-



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ther that the substance of this report, so far as it relates to each province, or the territories, be communicated to the Lieutenant Governor thereof for the information of his government.

Respectfully submitted,

DAVID MILLS,

Minister of Justice.

VICTORIA, B.C., August 30, 1901.

The Honourable

The Minister of Justice,  
Ottawa.

The undersigned, on behalf of the Nelson and Fort Sheppard and the Kaslo and Slocan Railway Companies, desire to submit the following for your consideration with reference to an Act passed at the last session of the Legislative Assembly of the province of British Columbia, being chapter No. 45, and entitled: 'An Act respecting certain Railway Land Grants.'

Section 2 of the Act is in the following words:—

'It is hereby declared and enacted that all grants of Crown land heretofore made to railway companies by the Lieutenant Governor in Council in aid of or as a subsidy for construction of railways were subject to the reservation of a royalty to the Crown upon all timber and other wood cut upon lands to be granted by the Crown and with respect to the power conferred for the enforcement of said royalty.'

The Nelson and Fort Sheppard Railway was incorporated by an Act of the local legislature, being chapter 38 of the statutes of 1891. In 1892, an Act was passed providing a land subsidy in aid of the said railway. It was thereby enacted that it should be lawful for the Lieutenant Governor in Council to grant to the company lands in the electoral district of West Kootenay not exceeding 10,240 acres for each mile of the railway.

It was known at the time that these lands were not valuable for agricultural purposes. All minerals were reserved. Except, therefore, as to such portions of them as would be used for town sites along the railway the value of the concession depended almost entirely upon the timber which was to be found thereon.

In the year 1888, a section was introduced in the General Land Act of the province which was in force at the time of the passage of the Subsidy Act, and which provided that there should be reserved for the use of the Crown a royalty of fifty cents per thousand feet, board measure, on respect of all timber suitable for spars, bolts, saw-logs or railroad ties, which should be cut upon any Crown lands, patented lands, timber lease holds, timber lands, 'and upon any lands hereafter granted.'

In the year 1896, the Land Act was amended by providing that the royalty should apply to timber used as props for mining purposes, shingle or other bolts of cedar, and a further royalty of 25 cents on every cord of other wood cut upon Crown lands.

In 1893, the Nelson and Fort Sheppard Railway was declared a work for the general advantage of Canada, and was re-incorporated as a Dominion railway, being chapter 57 of the Dominion Statutes of 1893. The railway was built under the Dominion Statutes, and after completion, the lands mentioned in the Subsidy Act of the local legislature were duly granted to the company. Shortly after, a question arose as to whether the timber on the lands so granted was subject to royalty. The railway company contended that they were not liable, and the government insisted that the timber on such lands was subject to the provisions of the Land Act. It was proposed by the company that the question should be settled either by a reference to the Supreme Court of British Columbia under the 'Supreme Court Reference Act,' or by some other form



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of litigation, and in the meantime an arrangement was entered into between the government and the company in the following words :—

VICTORIA, B.C., January 26, 1897.

D. C. CORBIN, Esq.,  
President Nelson and Fort Sheppard Railway,  
Spokane, Wash.

Referring to your conference with the government on 13th instant, on which occasion the following arrangement with reference to royalties on timber and cordwood cut upon the Nelson and Port Sheppard Railway Company's land grant was agreed upon, viz. :—

1st. You are to make monthly returns to the Provincial Timber Inspector at Vancouver giving the particulars of timber and cordwood cut by all and every person whatsoever on the said land grant, and to remit your cheque therewith in payment of royalties thereon.

2nd. The persons actually cutting timber or cordwood under authority from your company are also to make returns to the Timber Inspector at Vancouver monthly in accordance with the provisions of the Land Act.

3rd. Official receipts will be forwarded to you for all royalties paid which will contain a clause that in the event of its being decided that the said royalties are by law not due to the Crown, the moneys so paid will be refunded to you.

4th. The books of your company and those of persons cutting timber by your authority are to be opened to the inspection of government officers.

This letter is to confirm the above arrangement, and those persons who have already paid royalty on such timber will be notified of the purport of this arrangement and advised that in future the government look to you to make payments.

Some printed forms for returns of timber have been mailed to your address.

GEO. B. MARTIN,  
Chief Commissioner of L. & W.

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SPOKANE, January 29, 1897.

Hon. GEO. B. MARTIN,  
Chief Com. of Lands and Works,  
Victoria, B.C.

I acknowledge receipt of your letter of the 26th instant, and have carefully noted contents. The monthly accounts will be rendered promptly to the Timber Inspector at Vancouver as directed, and in the ordinary course he should receive these statements somewhere from the 8th to the 15th of the following month.

My recollection is, that the law applies to lumber and cordwood only. There are certain other things, such as timber used in mines for stalls and lagging, which I am inclined to think would be rated by the cord, possibly by the lineal foot. Will you let me know in regard to this ?

I trust that prompt notification of the arrangements made will be sent to persons who have paid royalty, so that no misunderstanding may occur, and in order that the business may proceed smoothly hereafter.

The blank timber returns have been received.

D. C. CORBIN, President.

Various delays occurred in bringing the matter before the courts. In the meantime, the company went on paying the royalty under the terms of the agreement. Subsequently, the government of which Mr. Martin was Chief Commissioner was de-



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feated, and by reason of the many changes in the administration which have taken place in British Columbia since 1898, it was not convenient to get the matter before the courts, except by some adverse proceedings against the government, which the company were unwilling to institute except as a last resort.

The Kaslo and Slocan Company was incorporated by a similar Act of the local legislature, and had a land subsidy in the same words as the Nelson and Fort Sheppard Railway Company. Its undertaking was completed and the lands were granted to the company.

The capital stock in both companies was subsequently acquired by representatives of the Great Northern Railway Company, and from that date the two local roads were operated as a part of the Great Northern system. The proceedings which afterwards took place with reference to timber royalties were, by arrangement, carried on in the name of the Kaslo and Slocan Company, but it was understood that the decision in respect to one railway should operate as a settlement of the question in so far as both companies were concerned.

On June 27, 1900, the solicitor for the Kaslo and Slocan Company addressed a communication to the Attorney General, laying the matter before him and requesting that some action should be taken. No satisfactory reply having been received the solicitors of the railway company drafted a petition of right, and requested that a *fiat* should be granted. The solicitor for the company also came to Victoria and personally interviewed the Attorney General. He was informed by that official that the matter would be considered, and that if the Attorney General came to the conclusion that the contention of the company was well founded there would be no necessity to go to the expense of a petition of right, as the government would refund the money without suit.

Nothing further was heard, however, from the Attorney General's Department. In November, one Martin, a timber inspector for the district, demanded further payment of royalties from the company. This was refused, and the inspector then seized two of the company's engines and took possession of a round-house. The solicitor for the Kaslo Company was at that time in Vancouver, and he interviewed the Attorney General and urged a decision on the question of the application for a petition of right. It was explained that it had not been possible to bring the matter to the attention of the Premier, but a decision was promised in ten days. The company waited for twenty-seven days, and having then received no reply from the Attorney General's Department, issued a writ for trespass against the inspector personally. The statement of claim in the action was delivered on January 8, 1901. Ten days later an application was made to the judge to extend the time for defence on the ground that it was necessary to consult the Attorney General. The extension of time was granted. A defence, prepared by the Attorney General's Department, was delivered on March 8, 1901.

The local legislature convened on February 21, 1901.

On March 2, 1901, Bill No. 7, introduced by the Attorney General, and which subsequently became the Act referred to, in the first part of this letter, was read the first time. While this Bill was on the Order Paper for second reading, the following correspondence took place between the firm of Bodwell & Duff, representing the Nelson and Fort Sheppard Railway (and who were acting in conjunction with the solicitor for the Kaslo and Slocan Railway) and the Attorney General :

VICTORIA, B.C., March 6, 1901.

The Hon. the Attorney General,  
Victoria, B.C.

Our attention has been called to Bill No. 7, introduced by you which amounts in fact to a declaration that the land subsidies given to the Nelson and Fort Sheppard Railway Company and the Kaslo and Slocan Railway Company were always subject to the provisions of the Land Act respecting timber royalty.

As you are aware, for some years past we have been endeavouring to get this matter before the courts in the form of a case stated for the opinion of the court as to the



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construction of the various land subsidy Acts. As we were unable to get the matter brought before the courts in that way, the Kaslo and Slocan Railway Company, a short time ago, refused to pay certain timber dues, in consequence of which one of the officials of the government seized certain property of the company, and we brought an action against him for such act, in which the question of the construction of these Acts will come up for the consideration of the court. It was well understood between the government and us at the time that this was to be a test action, and the circumstances were arranged so that the interpretation of the Act might be the subject of a decision of the court. In that condition of things, it certainly seems surprising that the legislature should now attempt to interfere with this matter and by an *ex post facto* law put a construction on the subsidy Acts which may be different from that which the court will pronounce when the matter comes before it. You must know that very little value attaches to these land grants outside of the timber which is upon them, and that when the various Acts went through there was no question in the minds of any of the parties to the transaction, but that the railway companies were obtaining the unrestricted right to the timber on these lands. It was a matter of considerable surprise to them when the government first proposed to collect the royalty, and at the instructions of the Nelson and Fort Sheppard we immediately applied to you, when you were formerly Attorney General, for the purpose of having a case stated in order to test the position. This, however, you did not see your way to do, and as the company did not wish to be involved in direct litigation with the government, and as it was thought that matters might be arranged later on, we went on paying the royalty under protest, and with the idea of eventually testing the question in the manner we had indicated above.

If it should be that our contention is correct, and that this timber belongs to the companies, you will see that the present Act is in the nature of a confiscation by legislative declaration of a property which has been given to the different railways for the purpose of assisting their undertaking. We are sure that the government would not propose any legislation of this kind, and we are bound to assume that the Bill has been introduced by you under some misapprehension as to the actual facts of the case, and on behalf of the Nelson and Fort Sheppard Railway Company and the Kaslo and Slocan Railway Company, for whom we are acting, we have the honour to request that the government will consider this phase of the case before putting the Bill through the House, and make such amendments as will be necessary to protect the rights of the parties, if any.

In this connection, we may mention that a few days ago we addressed a letter to the Chief Commissioner of Lands and Works on this very subject, requesting him to arrange a scheme by which purchasers from us could take the timber free of royalty, we agreeing to give security that in case the decision of the action now pending should support the government's contention, all royalties on timber cut in the meantime would be paid.

BODWELL & DUFF.

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VICTORIA, B.C., March 7, 1901.

The Honourable  
The Attorney General,  
Victoria, B.C.

*Re Nelson and Fort Sheppard Railway Lands.*

Herewith inclose copy of an official communication which I have sent to the Provincial Secretary.

E. V. BODWELL.



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VICTORIA, B.C., March 7, 1901.

To the Honourable the Provincial Secretary,  
Victoria, B.C.

*Re Timber Royalties on Nelson and Ft. S. Ry. Lands.*

Referring to the verbal interview which I had with the government yesterday, I beg to inform you that I have, since returning to my office, looked up the correspondence in this matter as far as possible, and I find that in January, 1897, Mr. Corbin, and the Timber Inspector, who was acting under instructions from the government, as our letters from them show, entered into an agreement by which the Nelson and Fort Sheppard Railway Company should collect the timber dues and hand over to the government the proportion which the government claimed, it being understood, however, that the matter was to be brought before the courts, and that a refund of the money should be made by the government, if it were hereafter decided that the lands were not subject to royalties. The original document containing this agreement was forwarded by us to the Attorney General's Department some time about the 15th or 16th of January, 1897, and will be found on record there; so that all collections made by the Nelson and Ft. Sheppard and all payments have been subject to the arrangement. I also inclose a copy of an official communication, signed by Mr. Martin, as Chief Commissioner of Lands and Works, which was forwarded to Mr. Corbin, in pursuance of the understanding to which I have referred, and which shows clearly the terms upon which the money was paid.

I am sending a copy of this letter to the Attorney General.

E. V. BODWELL.

NOTE.—The inclosure in the above letter was copy of letter addressed to Mr. D. C. Corbin by the Chief Commissioner of Lands and Works, dated January 26, 1897, which is found on a previous page of this communication.

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VICTORIA, B.C., March 7, 1901.

To the Honourable the Attorney General,  
Victoria, B.C.

*Re Timber Dues, Nelson and Ft. S. Lands.*

We inclose copies of some correspondence in this matter which we had with you and Mr. Corbin. If you will follow this line in your office, you will see that there was a clear arrangement made with us as to the question how the liability of the Nelson and Ft. Sheppard Railway was to be settled, and also that in collecting the timber dues, that company was doing so under a well understood arrangement with the government.

BODWELL & DUFF.

(Encls.)

March 7, 1901.

Messrs. BODWELL & DUFF, Barristers,  
Victoria, B.C.

I have the honour to acknowledge receipt of your communication of the 6th instant, respecting the Bill introduced by me, declaring that the lands granted to railway companies by the Lieutenant Governor in Council in aid of the construction of certain railways in this province have always been subject to the Crown royalty upon timber.



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It never was the intention of the government, or the legislature, to exempt railway aid lands from the timber royalty clauses of the Land Act. The government have always taken the position that this royalty should be paid, and from time to time have taken stringent measures to enforce payment. In my opinion, a fair construction of these subsidy Acts leads to the conclusion that these lands are subject to timber royalty, as on all other lands granted by the Crown since the year 1888. Any other construction would defeat the intention of the legislature, and the Crown would be deprived of an important source of revenue.

I consider it quite proper for the legislature to reform the Acts authorizing railway subsidies, so that there will be no room whatever for doubt about the reservation of this royalty.

You state that it was well understood between the government and your firm that the action of the Kaslo and Slocan Railway Company against J. R. Martin, one of the government collectors of timber royalty, was instituted as a test case. If by this statement you mean that the government authorized or encouraged, or was in any way a party to the bringing of this action, I must say I do not know on what it is based. I received no intimation from any source that this railway company contemplated proceeding against Mr. Martin. My first knowledge of the case was derived from a letter received at this department on the 3rd of January of this year, from the provincial timber inspector, inclosing a copy of the writ on Mr. Martin.

D. M. EBERTS,  
Attorney General.

VICTORIA, B.C., March 7, 1901.

To the Honourable the Attorney General.

*Re Timber Dues on Kaslo and Slocan and Nelson and Ft. Sheppard Lands.*

We have the honour to acknowledge receipt of your letter of March 7, 1901.

We cannot assent to the proposition that, because the government have always taken the position that these lands were subject to timber dues, therefore the present Act is a proper one to bring in. You must agree that the question is one to be decided by an interpretation of the former Subsidy Acts, and that, as the matter is now pending in the courts, it is most improper to forestall the decision by a piece of legislation which gives an interpretation to these Acts at this date. The question, we think, is one of contract between the companies constructing the railways and the government. In consideration of that construction the government promised certain things; that promise was put into writing in the form of an Act which was passed by the legislature—on the faith of that Act the railway was built and full consideration for the contract paid by the companies in that way. The suggestion now is, that by the present legislation an interpretation is to be put upon that contract which may be different from the construction which the courts will place upon the Act in question. The intention of the parties must, like every other question in the matter of this kind, be determined by the language which they have used; the ideas which the parties had outside of the language of the statute cannot now be taken into consideration even if we could agree upon that point, which is impossible. From our knowledge of the situation, as solicitors for the Nelson and Ft. Sheppard Railway Company, we know that the company has always contended that the intention was that they should receive the timber free of dues, otherwise, as we have already pointed out, the land grant was of very little value. The government also should remember that land grant bonds have been sold to innocent parties on the faith of this transaction, and upon the construction which their solicitors advised them would be placed upon the Subsidy Acts in question. Surely, it needs no argument on our part to convince you that to



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change this position now is most improper. The companies, of course, must take the Act as it reads, and if your contention is correct the courts will hold that the timber dues are payable by them, but if the court should hold otherwise you surely must agree that it is little short of confiscation of property to pass an Act now which would compel the court to construe the Act according to your contention.

We hope that you will be able to see the force of these views and comply with our suggestion to make such amendments as will protect whatever rights are already vested in the companies who have obtained lands under the Subsidy Acts to which we have referred.

BODWELL &amp; DUFF.

Notwithstanding the protests above referred to, the Bill above-mentioned passed third reading and was assented to with the other Acts of the session.

On the 30th April, 1901, a further defence was delivered in the action then pending in the Supreme Court of British Columbia against Inspector Martin, in the following words :

"1. Since the defendant delivered his statement of defence herein, an Act intituled 'An Act respecting certain Railway Land Grants,' was on the 25th day of April, A.D. 1901, enacted by the Legislature of the Province of British Columbia, whereby it is declared and enacted that all grants of Crown lands made prior to the passing of the said Act to railway companies by the Lieutenant Governor in Council in aid of or as a subsidy for construction of railways, were subject to the provisions of the Land Act with respect to the reservation of a royalty to the Crown upon all timber and other wood cut upon lands to be granted by the Crown, and with respect to the power conferred for the enforcement of said royalty and that said grants of land were subject to said provisions as from time to time amended and re-enacted, and are subject to said provisions as they appear in the Land Act and its amendments now in force,"

The bonds which were issued for the construction of the Nelson and Fort Sheppard Railway were secured on the land grant as well as on the earnings of the road. A part of these bonds have been retired by the use of proceeds on the sale of lands. There is now outstanding in the hands of bona fide holders bonds to the extent of \$1,293,000.00. The road has never earned more than its operating expenses, and the undertaking could not be sold on its merits for a sum sufficient to pay the outstanding bonds, and except for the land grant the bonds are of very little value.

There is not to exceed 30,000 acres of agricultural land in the whole grant ; the balance of the land is mountainous, rocky and worthless except for the timber upon it. It is estimated that there is about five hundred million feet of lumber upon the unsold portion as well as many thousand cords of wood. The value of the grant is diminished by the amount of royalty chargeable upon the timber and wood as above.

The Kaslo and Slocan Railway also is bonded and its securities are in the hands of bona fide holders. As in the case of the Nelson and Fort Sheppard Railway their value is dependent almost entirely upon the land grant. The amount of agricultural land is small, but there are many million feet of timber suitable for ordinary purposes and many thousand cords of wood.

We have the honour to request that you will consider whether the Act above referred to, namely, Chapter 45 of the Act of last session of the local legislature of British Columbia, should not be disallowed on the ground that it has prevented a decision of the courts upon a question materially affecting Dominion interests. The Nelson and Fort Sheppard is a Dominion railway; it has been built and put into operation by money advanced upon securities which were issued upon the assumption that the lands in question were valuable for the reason that the timber upon them was not subject to royalty. The ground upon which that contention is based is, shortly, that the Land Act referred only to grants made by the Crown in the ordinary course of the administration of public lands, whereas the lands in question were granted to the rail-



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way company in pursuance of special legislation, and it was not intended that the ordinary provisions of the Land Act should apply. Since, therefore, the special Act under which the lands were granted made no reservation of timber royalties the contention is, that they could not be subject to that duty by reason of the language of the general Land Act. It will be noticed also that the Act passed at the last session of the legislature, against which we are now complaining, subjects the lands to duty upon props for mining purposes, shingle or other bolts of cedar, and twenty-five cents a cord for all other wood. These provisions were not in force at the time the Subsidy Act was passed, but only became law in the year 1896, long after the railway was built and in operation. It is contended that it never could have been the intention of the railway company or the legislature to subject the lands in question to the provisions of the general law, which, as already seen above, is being amended from time to time with reference to timber upon ordinary ungranted lands of the Crown.

It is submitted that it would be improper to permit the local legislature to deal with the securities of a Dominion railway in the manner above referred to. If the principle is admitted that, after a railway has become subject to Dominion control, its assets can be impaired, to the detriment of the holders of its securities, at the will of the local legislature it is possible to conceive of a case in which the undertaking would be completely destroyed by the caprice of the local authorities, although it had been declared a work for the general advantage of Canada and should be maintained accordingly.

It is clear that the matter in question was the subject of a bona fide dispute and that the government agreed that it should be submitted to the courts for consideration. The efforts of the company to have the question adjudicated upon in a friendly manner were counteracted by the delays interposed by the government and the inattention of the Attorney General's Department, and the companies were driven at the last to enforce their rights in an ordinary action of trespass against the government official. While the action was pending in the courts, the legislature passed a special Act forestalling the decision, and preventing the company from obtaining a judicial construction of the contract upon which they had built the railway.

The amount involved is very large and entails serious consequences upon the company. We have the honour, therefore, to request that the matter may receive the attention of the executive, and, if it is in accordance with the usual practice, the company request that they may be further heard verbally before the Governor in Council at a time and place which may be appointed for that purpose.

BODWELL & DUFF.

DEPARTMENT OF JUSTICE,

OTTAWA, September 16, 1901.

The Honourable

The Attorney General of British Columbia,  
Victoria, B.C.

I am directed to inclose, for your information and such observations as you may desire to submit, copy of a letter from Messrs. Bodwell & Duff, barristers, of Victoria, B.C., of the 30th ult., seeking disallowance of an Act passed at the last session of the British Columbia legislature, being chapter 45, intituled : 'An Act respecting certain railway land grants.'

I am to state that the minister will, in reporting upon this measure, be glad to consider any reply which you desire to make.

There were some enclosures with the letter, but these relate to proceedings in the cause, and you are doubtless able to refer to them.

E. L. NEWCOMBE,

Deputy Minister of Justice.



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PROVINCE OF BRITISH COLUMBIA,  
ATTORNEY GENERAL'S OFFICE,  
VICTORIA, December 20, 1902.

The Honourable  
DAVID MILLS, K.C., Minister of Justice,  
Ottawa, Ont.

I have the honour to acknowledge the receipt of a letter bearing date the 16th September last from your deputy, inclosing copy of certain correspondence addressed to you by Messrs. Bodwell & Duff, barristers of this city, urging the disallowance by the Dominion Executive of an Act passed at the last session of the British Columbia legislature, being chapter 45 of the statutes of 1901, and being intituled: 'An Act respecting certain railway land grants.' The disallowance of the Act is sought on the ground that it will compel the Nelson and Fort Sheppard Railway Company and the Kaslo and Slocan Railway Company to pay to the government of British Columbia a royalty upon timber cut upon the lands granted to said companies by the government in aid of the construction of said railways. The railway companies in question were incorporated by special Acts of the legislature of the province, and by other Acts the Lieutenant Governor in Council was empowered to grant to the companies certain lands as an aid towards the construction of said railways. I am personally aware of the facts in connection with the grant of said aid, and I know it was the intention of the legislature that the lands so granted should be subject to the land laws of the province respecting royalty upon timber. It may be that the intention of the legislature was not expressed as clearly as it might have been expressed, and therefore, upon a narrow construction of the said Acts by the courts the government might lose an important source of revenue from the lands of these companies. This is a purely local and domestic matter, to be dealt with by this legislature. It is essentially a question of the exemption of the timber products of certain railway aid lands from a species of taxation, in view of the way in which the royalty is reserved or imposed, and from time to time changed by the legislature. If this legislature has no doubt about its intention it seems to me it is quite proper for it to reform the terms in which that intention is expressed so as to render it impossible for the companies to take more than they should receive.

In this connection permit me to draw your attention to subsection 41 of section 10, of chapter 1, of the Revised Statutes of this province, intituled the 'Interpretation Act of British Columbia.' That subsection is as follows:—

'Every Act shall be so construed as to reserve to the legislature the power of repealing or amending it, and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party whenever such appeal, amendment, revocation, restriction or modification is deemed by the legislature to be required for the public good.'

You will, therefore, see that the legislature has merely a reserved power which is as much a term of the said Aid Acts as if it were expressly embodied therein.

I would also observe that any interference with the impugned legislation would have a most disastrous effect upon the revenues of the province, as thereby the government would be deprived of the great bulk of the royalty upon timber at present received which constitutes a very considerable portion of the income of the province.

Messrs. Bodwell & Duff also seek your intervention on the ground that in 1893 a Dominion corporation called the Nelson and Fort Sheppard Railway Company was created by chapter 57 of the Dominion Statutes of that year, and the said railway declared to be for the benefit of Canada. With that Dominion corporation the legislature of British Columbia has nothing whatever to do. The bonus was given to a provincial corporation. The provincial corporation is an entirely different legal entity from the Dominion corporation. This is a royalty reserved in respect of lands granted by the province to a company, and with respect to which lands the Dominion



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has not legislated at all. The fact of the Dominion declaring the railway to be for the general advantage of Canada would regulate the corporations' *status quo* railway and possibly the lands included in the right of way, but would not prevent the province from taxing those lands by way of royalty, or in any other way, or from moulding in any manner it deems for the public good the aid the company shall receive. Even if we are now dealing with a Dominion corporation, the legislature of this province is certainly acting within the compass of its powers when it reforms one of its own Acts. You may say that you do not approve of the policy of the Amending Act, and, therefore, you will disallow it, although it is *intra vires*. In my opinion the power to disallow *intra vires* legislation is a power which should be sparingly exercised. In this case the legislature has considered all the correspondence, facts and arguments submitted to you as a ground for disallowing the Act, and it has deliberately decided that it is for the public good that the Act should be on the statute-book.

It seems to me the Dominion Executive should not nulify the action of a provincial legislature acting within its powers, except where it runs counter to some general public policy or to the legislation of the Dominion. The Dominion, apparently for reasons affecting Canada as a part of the Empire has adopted as its policy that Japanese shall be allowed to enter Canada on the same terms as other foreigners. To carry out its policy it has deemed it necessary to disallow the British Columbia Immigration Act, 1900. Although I disapprove of this particular exercise of the disallowance power, yet I can understand that the Dominion Executive have overridden the *intra vires* legislation of this province pursuant to the dictates of what they have established as the public policy of Canada.

Should the Dominion parliament enact an insolvency law, I would consider it a proper exercise of this power to disallow any provincial statute which although clearly *intro vires*, would interfere with the operation of the Federal legislation.

In the early days of the Confederation the Dominion Executive appear to have been imbued with the notion that the relation between the Dominion and the provinces was analogous to that existing between parent and child, and to have acted accordingly. That view of the status of the provinces has been overthrown by a series of Imperial Privy Council decisions which have clearly established that the provinces acting within the scope of their powers are almost sovereign states, and that they are entitled to exercise all the prerogatives of the Crown not conferred upon the Dominion. The logical conclusion from these decisions is that the disallowance power is improperly exercised except in the cases I have above mentioned. Of late years the Dominion Executive appear to have adopted this view. Although very strong arguments were advanced for the disallowance of the Jesuits Estate Act, yet the power was not exercised.

By chapter 13 of the statutes of 1888, the legislature of Manitoba enacted and declared that an agreement for public printing between Her Majesty the Queen, and Edward Trudel, was to be deemed cancelled as of the 1st day of February, 1888, and that there should be no claim against Her Majesty for damages or otherwise in connection with said agreement for any matter after said 1st day of February. A petition was presented His Excellency the Governor General praying that said Act should be disallowed as being an invasion of a contractual right. In that case also the Dominion authorities declined to interfere.

I therefore most respectfully submit that the legislation complained of by the solicitors for the above mentioned railway companies should not be disallowed by His Excellency the Governor General in Council.

D. M. EBERTS,  
Attorney General.



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AT GOVERNMENT HOUSE,

VICTORIA, B.C., March 26, 1902.

The Honourable the Secretary of State,  
Ottawa, Canada.

I have the honour to transmit to you, herewith, a certified copy of a minute of the Executive Council, approved by me on the 21st instant, which embodies a resolution of the Legislative Assembly of this province, requesting me to represent to the Federal Government the necessity of enacting legislation during the present session of parliament to give effect to the recommendations of the Royal Commissioners appointed to inquire into the Asiatic question in British Columbia.

H. G. JOLY DE LOTBINIERE,  
Lieutenant Governor.

*COPY of a Report of a Committee of the Honourable the Executive Council, approved by His Honour the Lieutenant Governor on the 21st day of March, 1902.*

The Committee of Council submit for the approval of His Honour the Lieutenant Governor the undermentioned resolution of the Legislative Assembly of British Columbia, namely :—

‘Whereas the Royal Commission recently appointed by the Dominion Government to inquire into the Asiatic question in this province, have reported strongly against the immigration of Chinese and Japanese into Canada :

‘Be it therefore Resolved, That an humble address be presented to His Honour the Lieutenant Governor, requesting him to communicate with the Dominion Government urging upon that government the necessity which exists for passing legislation at this session of the Federal parliament giving immediate and full effect to the recommendations of the majority report of the said commissioners.’

The Committee advise that a copy of this minute, if approved, be forwarded to the Honourable Secretary of State of Canada.

Dated this 20th day of March, 1902.

(Certified.)

J. D. PRENTICE,

Clerk, Executive Council.

*EXTRACT from a Report of the Committee of the Honourable the Privy Council, approved by the Governor General on the 10th May, 1902.*

On a Report dated May 3, 1902, from the Minister of Justice, submitting that he has had under consideration Chapter 80 of the Statutes of British Columbia, passed in the first year of His Majesty's reign, 1901, and intituled: ‘An Act to incorporate the Lake Bennett Railway Company.’

The Minister observes that reference has already been made to this Act in the Minute of Council dated January 25, 1902. It is provided by section 3 that the company may lay out, construct and operate a railway from a point at or near the head waters of Dyea river, to a point at or near Lake Bennett, thence to the 60th parallel of latitude.

The Minister further observes that the territory between the ocean and that region which is proposed to be traversed by the line of railway thus chartered is now in dis-



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pute between the United States and the Dominion of Canada, and it is considered inexpedient, pending the settlement of that dispute, to permit the construction of railways which may complicate and increase the difficulty already existing. The authority of a provincial legislature over railways is limited to such as are local in their character, and which do not connect the province with any other or others of the provinces, or extend beyond the limits of the province.

The Minister is of opinion that it is, therefore, very doubtful whether it is competent to the legislature of British Columbia to authorize the construction of this railway from the Dyea river to the northern boundary of the province, and the attempt to keep the traffic of such a railway under the control of the local government, notwithstanding any legislation of parliament upon the subject, is also objectionable.

The Minister considers that these two provisions construed together may furnish reason for disallowance of the Act, but in addition to these reasons, he does not consider it in the public interest, or consistent with the policy of the government of Canada that the Act should remain in operation.

The Minister, therefore, recommends that he said Act be disallowed.

The Committee submit the same for His Excellency's approval.

JOHN J. McGEE,

Clerk of the Privy Council.

## AT THE GOVERNMENT HOUSE AT OTTAWA,

The 10th day of May, 1902.

## PRESENT:

*His Excellency the Governor General in Council.*

Whereas, the Lieutenant Governor of the Province of British Columbia, with the Legislative Assembly of that province, did, on the 11th day of May, 1901, pass a statute, which has been transmitted, chaptered 80, and intituled: 'An Act to incorporate the Lake Bennett Railway.'

And, whereas, the said statute has been laid before His Excellency the Governor General in Council, together with a report from the Minister of Justice, recommending that the same be disallowed;

Therefore, His Excellency the Governor General in Council is pleased to declare his disallowance of the said statute and the same is hereby disallowed accordingly.

Whereof, the Lieutenant Governor of the Province of British Columbia, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

JOHN J. McGEE,

Clerk of the Privy Council.

I, Sir Gilbert John Elliot, Earl of Minto, Governor General of Canada, do hereby certify that the statute passed by the legislature of the province of British Columbia, on the 11th day of May, 1901, chaptered 80, and intituled: 'An Act to incorporate the Lake Bennett Railway' was received by me on the 24th day of June, 1901.

Given under my hand and seal this 10th day of May, 1902.

MINTO.

[SEAL.]



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EXTRACT *from a Report of the Committee of the Honourable the Privy Council, approved by the Governor General on the 12th June, 1902.*

The Committee of the Privy Council have had under consideration a Report dated 9th June, 1902, from the Minister of Justice, with respect to certain Statutes passed by the Legislature of the Province of British Columbia in 1901.

The Committee, concurring in the said report, submit the same for His Excellency's approval.

JOHN J. MCGEE,

Clerk of the Privy Council.

### BRITISH COLUMBIA LEGISLATION, 1901.

OTTAWA, June 9, 1902.

To His Excellency

The Governor General in Council.

There has been referred to the undersigned a despatch of the Lieutenant Governor of British Columbia, dated 29th ultimo, transmitting copy of a minute of the Executive Council of that Province, dated 28th ultimo, approving a report of the Attorney General with regard to certain statutes passed by the provincial legislature, 1901, to which objections have been raised by Your Excellency's Government.

The undersigned observes that as to the following statutes the provincial government recommend the amendments suggested by Your Excellency's Government as alternatives to disallowance, viz. :

Chapter 10. 'An Act to amend the Companies' Act, 1897.'

" 25. 'An Act respecting the fisheries of British Columbia.'

" 32. 'An Act to authorize a loan of five million dollars for the purpose of aiding the construction of railways and other public works.'

" 65. 'An Act to amend the Arrowhead and Kootenay Railway Company Act, 1898.'

" 69. 'An Act to incorporate the Coast Kootenay Railway Company, Limited.'

" 70. 'An Act to amend the Columbia and Western Railway Company Act, 1895.'

" 71. 'An Act to incorporate the Comox and Cape Scott Railway Company.'

" 72. 'An Act to incorporate the Crawford Bay Railway Company.'

" 77. 'An Act to incorporate the Imperial Pacific Railway Company.'

" 78. 'An Act to incorporate the Kamloops and Atlin Railway Company.'

" 79. 'An Act to incorporate the Kootenay Central Railway Company.'

" 81. 'An Act to incorporate the Midway and Vernon Railway Company.'

" 83. 'An Act to incorporate the Queen Charlotte Islands Railway Company.'

" 84. 'An Act to incorporate the Vancouver and Grand Forks Railway Company.'

" 87. 'An Act to incorporate the Yale Northern Railway Company.'

The time for disallowance of these statutes will expire on the 23rd instant. The legislature of British Columbia has been for some time in session, yet it does not appear from the despatch that the amending Acts have been passed, although it is distinctly stated that the provincial government recommends such amendments.

The undersigned considers that Your Excellency's government should have a definite assurance previous to 23rd instant that these recommendations have been



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carried into effect, and he recommends with regard to the various Acts above mentioned, that a telegraphic despatch be sent to the Lieutenant Governor of British Columbia, acknowledging his despatch of 29th ultimo, with the inclosures, stating that the power of disallowance will not be exercised if the amendments proposed are sanctioned within the time limited for disallowance ; that the matter is, however, of so much consequence that the action of the legislature cannot be permitted to remain in doubt, and that it will be necessary for Your Excellency's government to take further action unless on or before the 23rd instant Your Excellency's government is advised that the necessary amendments have been finally passed.

Chapter 68. 'An Act to incorporate the Chilcat and Klehini Railway and Navigation Company.'

" 80. 'An Act to incorporate the Lake Bennett Railway Company.'

The latter of these Acts has recently been disallowed for the reasons stated in a previous report of the undersigned.

As to chapter 68, the undersigned has nothing to add to the report of his predecessor of December 27 last.

Chapter 85. 'An Act to incorporate the Victoria Terminal Railway and Ferry Company,' and

" 86. 'An Act empowering the Corporation of the city of Victoria to lease the market building premises and otherwise carry into effect the Victoria Terminal by-law, 1900.'

With regard to these two Acts, it is stated in the provincial despatch that the Attorney General has requested the council of the city of Victoria to advise him what action the city proposes to take towards reforming the agreements and by-law so as to render them unobjectionable to the undersigned, and that as the matter has not yet been dealt with by the council of Victoria the Attorney General is not in a position to make any recommendation respecting these Acts.

The undersigned observes that chapter 85 contains a clause respecting aliens the same as that contained in the other Acts of incorporation hereinbefore enumerated, and the reasons which have led the provincial government to recommend the repeal of that clause in other Acts of incorporation apply equally in the present case. There is the further objection, both to this chapter and chapter 86, that the agreement and by-law ratifying the same which are referred to in both statutes provide that no Chinese or Japanese person shall be employed upon the works of the company.

The undersigned would be satisfied to leave these Acts to their operation if section 25 of chapter 85 were repealed and if an amendment were made affecting both these statutes declaring that nothing in either Act contained should impose any statutory disability upon the company to employ Japanese. The action to be taken by the legislature does not, therefore, in the opinion of the undersigned, depend upon the council of the city of Victoria, and he considers that this view should be communicated by telegraph to the Lieutenant Governor with the request to inform Your Excellency's government within the time limited for disallowance whether such amendments have been made.

Chapter 37. 'An Act to amend the inspection of Metalliferous Mines Act and amending Act.'

The British Columbia Mining Association petitioned against this Act upon the grounds stated in their petition, a copy of which was submitted to Your Excellency, with the report of the predecessor of the undersigned of December 28 last. The statute provides for the appointment of inspectors of mines, requires reports and returns to be made to the provincial government respecting accidents and the working of the mines, &c., and establish a code of signals for use in the working of the mines. It also limits the employment of engineers to eight hours per day. The objection of the British Columbia Mining Association relate to the code of signals, which is said not to be



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reasonably practicable. This legislation is so clearly competent to the province that the undersigned feels that Your Excellency cannot do more than represent the views of the association to the provincial government. That has been already done, and it is stated by the provincial despatch that it is so clear that this legislation should not be interfered with, that the provincial government does not recommend its amendment or repeal.

The undersigned considers, therefore, that this matter must be left in the hands of the local authorities, and he recommends that the petitioners be so informed.

The undersigned further recommends that a copy of this report, if approved, be transmitted to the Lieutenant Governor of British Columbia, for the information of his government.

Respectfully submitted.

C. FITZPATRICK.

Minister of Justice.

*EXTRACT from a Report of the Committee of the Honourable the Privy Council, approved by the Governor General on June 12, 1902.*

The Committee of the Privy Council have had under consideration a Report, dated June 9, 1902, from the Minister of Justice, with respect to chapter 46 of the British Columbia Acts, 1901.

The Committee, concurring in the said report, submit the same for His Excellency's approval.

JOHN J. MCGEE.

Clerk of the Privy Council.

OTTAWA, June 9, 1902.

To His Excellency

The Governor General in Council.

The undersigned referring to the despatch of the Lieutenant Governor of British Columbia of 29th ultimo, observes that with regard to chapter 46 of the British Columbia Acts of 1901, intitled 'An Act to provide for the collection of a tax on persons,' the provincial government refers to a correspondence with the undersigned. The Attorney General of British Columbia wrote Mr. Mills on January 31 last, referring to Mr. Mills' report to Your Excellency upon this statute of December 27, 1901. The Attorney General stated as follows:—

'These provisions in almost their present form were first enacted by section 6, 7 and 8, chapter 24 of 1851, and afterwards re-enacted by sections 8 and 9 of chapter 110 of the Consolidated Statutes of 1888, and by sections 5, 6 and 7 of chapter 167 of the Revised Statutes of 1897.

'You will therefore see that this legislation is not new, and that on three occasions the Dominion Executive have allowed it to go into effect.

'I have no doubt that these provisions were first devised to facilitate the collection of poll tax from the Chinese. As you are no doubt aware, we have in this province quite a large number of Chinese and Japanese labourers. It is almost impossible to identify these men, and so they can evade payment of this tax. Very few of them possess any property that can be reached, so the only way to compel them to contribute towards the revenue of the province is by a poll tax collectable through their em-

'I feel confident that you are not inclined to throw any unnecessary obstacles in the way of our compelling these people to contribute a reasonable amount towards the



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maintenance of government in the province in which they make the money which they forthwith export to China.

‘In your report I notice you make this observation: “It is not clear to the undersigned whether in the case of an employee the statute intends that payment should be enforced directly against him.” I submit it is reasonably clear that a collector may proceed either against the employer or the employee for the amount of the tax. Section 3 imposes the tax upon every male person, and subsection (3) of section 5, in my opinion, recognizes the liability of the employee to pay the tax and provides that in the event of his doing so any liability of the employer shall cease. I would strongly urge upon you this view of the statute, that it imposes a direct tax upon every male above a certain age; that his liability to pay does not cease upon being employed by another, but that in that event by a statutory attachment of the “salary or wages due or to become due to such male person” (sec. 5, subsection 1) the employer becomes liable out of such salary or wages to pay the debt due to the Crown by the employee and that the employers’ payment of the tax discharges *pro tanto* his liability to his employee.

‘I consider it quite competent for a provincial legislature to enact that all moneys due or to become due from an employer shall be attached until a tax debt, due from the employee to the Crown, or to a municipality, shall have been discharged, and that out of such moneys the employer shall pay the tax.

‘It may be that all the provisions of the Act are not as well drawn as they might be, but I submit that the above is a fair interpretation to put upon the statute as a whole. You lay stress in your report upon the clause in subsection (1) of section 5, that “Every such merchant, farmer, trader or employer of labour, shall be primarily liable for the said tax in respect of every male person in his employ at any time during the year for which said tax is payable, and until the tax is paid in respect of such person.” That clause it seems to me may be fairly interpreted to refer to the employer’s liability as garnishee and to be a direction to the collector to have recourse in the first instance to the employer instead of wasting time and money collecting from the employees.

‘If you cannot adopt this view I am prepared to submit legislation either repealing the clause or making it clear that it has the meaning I attribute to it. As the disallowance of this Act or the striking out from it of the attachment provisions would seriously affect our already inadequate revenue, I ask that you reconsider the Act and that you do not have it disallowed at least until I fail to remove your objections to it.’

The undersigned having considered these observations of the Attorney General, thereupon the Deputy Minister of Justice, by direction of the undersigned, wrote to Mr. Eberts under date of February 21 last, as follows:—

‘Referring to your letter of 31st ultimo, addressed to Mr. Mills, with regard to the Revenue Tax Act, 1901, of British Columbia, I observe that there has been similar legislation in force in British Columbia since 1881, and I am not aware that any question has come before the courts with regard to it. It would seem, therefore, that the people of the province must have largely acquiesced in the enforcement of these provisions. The Minister, however, entertains no doubt that they are *ultra vires* to the extent stated in his predecessor’s report, approved on 10th ultimo. Any employer objecting to the validity of the Act may, of course, conveniently have the question determined by the courts, and in view of the fact which you state that previous statutes were not disallowed he is not inclined to recommend extreme measures with regard to the present Act. He thinks, however, that it would be worth while for you to consider whether a more constitutional means cannot be devised for ensuring the collection of the tax, as it is not unlikely, particularly as attention has now been called to the invalidity of the statute, that litigation may arise which will involve the province in costs, and otherwise prove embarrassing.

‘Awaiting a reply to the official despatch, the minister does not propose at present to make any further recommendation to His Excellency.’



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The undersigned considering the communication of the Attorney General, and of the aforesaid reply, and for the reasons therein stated, recommends that the Act in question be left to such operation as it may have.

C. FITZPATRICK,

Minister of Justice.

*EXTRACT from a Report of the Committee of the Honourable the Privy Council, approved by the Governor General on June 26, 1902.*

On a report dated June 12, 1902, from the Minister of Justice, submitting in reference to his report of June 9 instant that in accordance with the recommendations therein made, the Secretary of State has telegraphed to the Lieutenant Governor of British Columbia and received his reply, which has been referred to the Minister of Justice. The Lieutenant Governor states as follows: 'My government will not amend chapter 85 and 86 unless requested by municipal council of Victoria; Bills have been introduced to carry out recommended amendments to Chapters 10, 25, 32, 65, 69, 70, 71, 72, 77, 78, 79, 81, 83, 84 and 87. My government will undertake that said Bills will certainly be passed at present session so far as they can give an undertaking respecting action of legislature.'

The Minister considers that His Excellency may properly accept the assurance so given by the Lieutenant Governor that the Acts mentioned, other than 85 and 86, will be satisfactorily amended at the present session of the legislature, and he recommends therefore, that none of these Acts be disallowed.

The Minister observes as to chapters 85 and 86, that the provincial government decline to promote any amendment unless requested by the municipal council of Victoria. The Minister has already pointed out that the action which the government and legislature of British Columbia ought to take does not depend upon any request from the municipal council, and he would, in view of the correspondence, recommend the disallowance of these two Acts, were it not for the fact that it is represented to him that the Victoria Terminal Railway and Ferry Company has already constructed its works, or a large portion thereof, that it has acquired rights, and expended a large amount of capital upon the faith of the agreement with the city, and the two statutes in question, and it would therefore lead to very great hardship and expense, as well as some confusion of interests, in which innocent persons might suffer, if these Acts were disallowed.

The Minister entertains no doubt that the clause constituting the objection to the legislation is clearly *ultra vires*, and cannot legally affect the rights or capacity of aliens or Japanese, or others against whom it may be nominally directed.

The Minister considers for these exceptional reasons that chapters 85 and 86 may be left to such operation as they may have, notwithstanding the probability which appears very great that the legislature will not make the suggested amendments. The non-disallowance of these Acts should not, however, be regarded as a precedent or urged in support of any discrimination in favour of future Acts of incorporation containing these or similar objectionable clauses, the general intention of His Excellency's government being for the future to make no exception in the disallowance of the statutes of British Columbia affecting aliens generally or specially directed against the Japanese.

The Committee advise that a certified copy of this minute be transmitted to His Honour the Lieutenant Governor of British Columbia for the information of his government.

All which is respectfully submitted for His Excellency's approval.

JOHN J. MCGEE,

Clerk of the Privy Council.



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IMPERIAL CONSULATE GENERAL OF JAPAN,

June 25, 1902.

In the name of His Imperial Japanese Majesty's government, I have the honour of calling Your Excellency's serious attention to the following Bills that were passed by the British Columbia Legislative Assembly during the session which was just over and to which assent was given on the 23rd instant by His Honour the Lieutenant Governor of the province, namely :—

1st. The Bill entitled : 'An Act to further amend the Coal Mines Regulations Act.'

According to the report made to me by His Imperial Majesty's Consul at Vancouver, the said Bill has taken the form of re-enacting rule 34 of section 82 of chapter 138 of the Revised Statutes of British Columbia, with the addition to the said rule of the word 'Japanese' inserted after the word 'Chinaman.'

This rule, therefore, reads as follows :—

'Rule 34. No Chinaman, Japanese or person unable to speak English shall be appointed to or shall occupy any position of trust or responsibility in or about a mine subject to this Act, whereby through his ignorance, carelessness or negligence he might endanger the life or limb of any person employed in or about a mine, viz., as bankman, onsetter, signalman, brakesman, pointsman, furnaceman, engineer, or be employed below ground or at windlass of a sinking pit.'

This rule, as Your Excellency is already aware of, as it appeared in the Revised Statutes of British Columbia, that is without the present addition of the word 'Japanese,' was disallowed practically by the decision rendered by the Privy Council of Great Britain, which decided on an appeal taken from the decision of the full court of the province of British Columbia, as follows :—

'That an enactment by a provincial legislature that no Chinaman shall be employed in mines is beyond its competence, inasmuch as by the British North America Act, 1867, section 91, subsection 25, legislation with respect to naturalization and aliens is reserved exclusively for the parliament of the Dominion of Canada.

Relying on this decision of the highest tribunal of the British Empire, the present Bill must surely be *ultra vires* of the powers of the legislative assembly of British Columbia, as the word 'Japanese' as added is only variation in the originally disallowed Rule 34.

2nd. The Bill, No. 14 : An Act relating to the employment on works carried on under franchises granted by private Acts, with one section added, as follows :—

'10. The Lieutenant Governor in Council may appoint the chief of the provincial police and any provincial police constable or other persons as officers to carry out and enforce the provisions of this Act.'

The provisions of this Act are the same, with the exception of last section 10, as given above, which has been added, as that Act passed as chapter 14, 1900, statutes of British Columbia, and intituled : 'An Act relating to the employment on works carried on under franchises granted by private Acts.' This Act of chapter 14, 1900, was disallowed on September 11, 1901, by Your Excellency.

The section 14, above referred to, will prejudicially affect the number of Japanese settlers in the province, as it prohibits employment of any Japanese who are unable to read the Act in a language of Europe, on any of the works specified under this section, and besides there is every reason to believe that this section is deliberately meant against the employment of Japanese people only, as it is not a test of the language of the province, the English language, for any other European language is admitted for the test.

3rd. Insertion of these clauses in all private Bills which tend to the exclusion of the employment of Japanese labour, and particularly these clauses which are being added to the various railway Bills, notably section 4 of the Pacific Northern and America Railway Company Bill, which discriminates against Japanese in particular.



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4th. A resolution moved by a member of British Columbia legislature on April 10 and carried on 15th of the same month as follows :—

‘ That all contracts, leases and concessions of whatsoever kind entered into, issued or made by the government or on behalf of the government, provision be made that no Chinese or Japanese shall be employed in connection therewith.’

Pursuant to this resolution Japanese Consul at Vancouver reports, special licenses are now being issued to which are attached a condition that no Chinese or Japanese shall be employed thereon. It seems that this new clause has not been passed by a general Act of the legislative assembly, but the condition has been attached by the authority of section 50 of chapter 113 of the Revised Statutes of British Columbia, 1897, in which the Chief Commissioners of Lands and Works may grant licenses, to be called special licenses, subject to such conditions, regulations and restrictions as may from time to time be established by the Lieutenant Governor in Council.

Whether this be an Act or simply a resolution empowered by an Act, either its practical effect or with regard to its being constitutional or not, but in any case there is no doubt that it is the legislation which affects the questions of aliens, similar to that which was at stake in the case of *Bryden vs. The Union Colliery Co. of British Columbia*, in which it was decided by the Privy Council of Great Britain in July, 1890, that such legislation was distinctly unconstitutional. While this clause is unconstitutional, the Japanese residents in the province will materially suffer from the steps taken, as they are entirely prohibited from being engaged on timber limits, and in work connected with the timber licenses and a large number of them will consequently be thrown out of work and from their living, which they peacefully enjoyed for a number of years.

5th. Bill introduced into the British Columbia Legislature by the Minister of Mines of the same provincial government, entitled ‘ An Act to regulate immigration into British Columbia.’

This Bill is practically the same as the one that was introduced at a former session of the legislature, but was disallowed by Your Excellency’s Government.

The object of this Act is similar to the former one, inasmuch as it is aimed obviously and solely at the exclusion of the Japanese from the province, since subsection (f) the Chinese are exempt from the provisions of the Act.

My protest, as stated in the foregoing paragraph, will apply to this last and most serious one with even stronger force, as, should this Bill come into force, the Japanese will be totally deprived of their treaty right of free entry into Canada through their international highway, both by land and water, and the province of British Columbia will virtually mean to shut herself against the people of Japan. These high-handed measures, pursued on the part of the British Columbia legislatures, are almost an infringement of the treaty stipulations between the two most friendly powers concerned. Besides, it is manifest that such legislation is far from being constitutional, as the province is not entitled to have jurisdiction over the questions which involves the welfare and interests of aliens and immigrants, such power wholly resting with the Dominion Government. Your Excellency is doubtless aware that the Imperial Japanese Government has been voluntarily restricting the immigration of their labourers into Canada for the past two years, for the sole reason to avoid any friction that might occur by allowing them to come into British Columbia, and to cause any ill-feeling among a certain class of people there.

That the fact that voluntary course thus taken by the Japanese Government has proved so very effective, is fully proved by the Royal Commissioners appointed by Your Excellency’s Government.

The Commissioners state in their report, published as follows : ‘ Your Commissioners fully appreciate the action taken by the Government of Japan on August 2, 1900, whereby the Governors of the prefectures of Japan were instructed to prohibit entirely for the time being the emigration of Japanese labourers for the Dominion of Canada,’ &c., &c.



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‘The course adopted by the Japanese government, if we may without presumption be permitted to say so, is most opportune, eliminating all causes of friction and irritation between Canada and Japan, and so favouring a freer trade and intercourse between the countries than could otherwise obtain.’

‘Nothing further is needed to settle this most difficult question upon a firm basis than some assurance that the action already taken by the Government of Japan be revoked.’

‘Your Commissioners desire to express their earnest hope that in the continuance of this friendly policy legislation on this subject by the Canadian Government may be rendered unnecessary.’

While your Commissioners thus highly appreciate the measures taken by the government of Japan and strongly recommend your government that there should be no legislation enacted against the immigration of Japanese subjects into Canada, I am at a loss to find out why the British Columbia government should again pass the legislation above referred to, which was disallowed by Your Excellency’s Government only six months ago.

I shall not argue any further on the subject, as all these Bills above referred to are merely repetitions of the Bills, either passed by the British Columbia legislatures in previous sessions or disallowed by Your Excellency within only last six months, and still more as they were so thoroughly and ably argued by my predecessor in office, Hon. S. Shiunger, on previous occasions, that I have very little to add to his argument.

Before, however, concluding this note of official protest I have further honour of requesting Your Excellency, in behalf of His Imperial Japanese Majesty’s government, that you will take speedy steps that these obnoxious Bills, particularly that relating to the Japanese immigration, be disallowed, before it shall come into force, as this legislation, even for a moment if left in force, will most injuriously interfere with the free movement of all classes of Japanese in general, the consequences of which will eventually lead to jeopardizing of trade relations between Japan and Canada, in which British Columbia is particularly interested.

While I trust that Your Excellency’s Government should similarly be ready to use on this occasion the same enlightened and impartial policy which has on previous occasions been extended to the legislation of this kind, they will also take into consideration that on account of the recent treaty the people of the countries on both sides of the Pacific, the Empire of Japan and Dominion of Canada, should enter into closer union and have better understanding.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

TATSZGORO NOSSE.

MR. CHAMBERLAIN TO LORD MINTO,

DOWNING STREET, August 2, 1903.

I have the honour to acknowledge the receipt of Sir H. Strong’s despatch, No. 230, of July 2, forwarding a copy of a letter addressed by the Consul General for Japan in Canada to the Governor General protesting against the provisions of measures recently enacted by the legislature of the province of British Columbia as prejudicially affecting the rights of Japanese residents in the province.

2. I shall be glad to receive a copy of the reply returned to the Consul General in due course and also copies of the laws referred to in Mr. Nosse’s communication.

J. CHAMBERLAIN.



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IMPERIAL CONSULATE GENERAL OF JAPAN,

MONTREAL, August 11, 1902.

I had the honour of addressing to Your Excellency in previous despatch under date of June 26, which copy is herewith accompanied, in relation to several Bills and resolutions as per enclosures marked A, B, C and D, which were passed in the British Columbia legislature during the last session and assent was given later on by the Lieutenant Governor of the said province.

The Imperial Japanese Consul in British Columbia reports that since the laws above referred to had been enforced in that province the Japanese people are practically debarred from the full enjoyment of their rights and privileges under the vigorous prosecution of such laws and regulations in hand of the provincial officers. What most affects their rights and interests are the laws practically prohibiting their free entry into the province and preventing their employment on works carried on under franchises granted by Private Act, &c., and it is now proven so very obnoxious to our countrymen that they can no longer stand the enforcement of their laws.

I beg leave therefore to call Your Excellency's attention to the fact that I am in receipt of a cable instruction from the Imperial Minister of State for Foreign Affairs in Tokio that I should appeal to the goodwill of your government and ask them to have these obnoxious laws disallowed on the ground that the immigration law recently enacted proves not only disadvantageous to Japanese subjects but also contrary to Canadian constitution, and that the Imperial government of Japan are extremely surprised at such actions being taken in spite of severe restrictions they had put since 1900 upon immigration of their people into Canada.

I have, in accordance to the instructions above referred to, the honour to transmit the earnest desire of my government to Your Excellency's Government and at the same time trusting that your government will lose no time in having these laws disallowed at an early date.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

TATSZGORO NOSSE.

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A.

*Assented to June 21, 1902.*

MR. GREEN.

(No. 41.)

BILL.

## AN ACT FURTHER TO AMEND THE COAL MINES REGULATION ACT.

His Majesty, by and with the advice and consent of the Legislative Assembly of the province of British Columbia, enacts as follows :—

1. This Act may be cited as the 'Coal Mines Regulation Act Further Amendment Act, 1902.'

2. Rule 34 of section 82 of Chapter 138 of the Revised Statutes, 1897, being the 'Coal Mines Regulation Act,' is repealed, and the following is substituted therefor :—

'Rule 34. No Chinaman, or Japanese or person unable to speak English, shall be appointed to or shall occupy any position of trust or responsibility in or about mines subject to this Act, whereby through his ignorance, carelessness or negligence, he might endanger the life or limb of any person employed in or about mine, viz. : As banksman, onsetter, signalman, brakeman, pointsman, furnaceman, engineer, or be employed below ground or at the windlass of a sinking-pit.'



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## B.

*Assented to June 21, 1902.*

MR. HELMCKEN.

(No. 14.)

## BILL.

AN ACT RELATING TO THE EMPLOYMENT ON WORKS CARRIED ON UNDER FRANCHISES  
GRANTED BY PRIVATE ACTS.

His Majesty, by and with the advice and consent of the Legislative Assembly of the province of British Columbia, enacts as follows :—

1. This Act may be cited as the 'Labour Regulation Act, 1902.'

2. 'Employer,' includes any body of persons, corporate or unincorporate.

'Workman' includes any person who is engaged in any employment to which this Act applies, whether by way of manual labour or otherwise, and whether his agreement is oral or in writing.

3. This Act shall not apply to any person possessed of a certificate in the form set out in the Schedule A to this Act annexed, and signed by the Provincial Secretary or any officer appointed by the Lieutenant Governor in Council for the purpose of this Act.

4. In case of any Act passed during the present session or hereafter passed, giving, granting or confirming to any person or body corporate the right of erecting a bridge, making or operating a railway, tramway, turnpike, road, telegraph or telephone line, the construction or improvement of harbour, canal, lock, dam, slide, or other like work, the right of ferry, the right of carrying on any trade, business, occupation, or calling, the giving, granting or confirming to such person or body corporate any property, rights, or privileges whatsoever, or for the amendment to a former Act of a like nature which has not already similar provisions, no employer shall engage or employ, or allow to be engaged or employed, in connection with or in relation to any of the works, rights, trade, business, occupation, or property given, granted, confirmed, authorized or affected by the Act, any workman who, when asked to do so by a duly authorized officer, shall fail himself to read, in a language of Europe, this Act. In the event of any workman being so engaged or employed, the employer by whom same shall be engaged or employed shall be liable, upon summary conviction before any two justices of the peace, or functionary having the power of two justices of the peace, upon the oath of affirmation of one or more credible witness or witnesses, to a penalty not exceeding twenty-five dollars, nor less than ten dollars for every workman engaged or employed ; and in default of immediate payment of the penalty, the same may be levied by distress and the sale of goods and chattels of the person, and in default of sufficient distress the offender may be committed to any jail or place of confinement situate within the territorial jurisdiction of the committing justices, and there imprisoned for any term not exceeding thirty days ; and in the event of any workman being engaged or employed by any contractor or sub-contractor contrary to the provisions of this Act, then any such contractor or sub-contractor shall be liable, on summary conviction as aforesaid, to a penalty not exceeding twenty-five dollars, nor less than ten dollars, for every workman engaged or employed ; and in case of default in immediate payment of such last-mentioned penalty, the same may be recovered by distress, and sale of goods and chattels of the offender ; and in default of sufficient distress the offender may be committed to any jail or place of confinement situate within the territorial jurisdiction of the convicting justices, and there imprisoned for any term not exceeding thirty days ; and any member, manager, director, officer or agent of a corporation who causes or procures any person to be engaged or employed contrary to the provisions of this Act, or permits or connives at such engagement or



employment, shall be liable, upon summary conviction as aforesaid, to the like penalties as hereinbefore in this section provided, recoverable in manner secondly hereinbefore mentioned.

5. The offender shall be liable to separate and successive penalties for each and every day which any person shall be employed.

6. In the event of any contravention of this Act, it shall lie on the employer to prove that the person was not engaged or employed contrary to the provisions of this Act.

7. Notwithstanding anything to the contrary every contractor or sub-contractor for any works, or any proportion thereof, referred to herein which omits to provide for the performing of such works as provided by this Act, shall be illegal and void.

8. The provisions of this Act shall be deemed to be incorporated in every such Act and declared to be the condition upon which any such Act is passed, and shall be binding upon bondholders and all other persons in any way interested in the said company or its property.

9. In case the provisions of this Act are wilfully violated, such violation shall work a forfeiture of all powers and privileges granted by the Act of incorporation of any such company, but no such forfeiture shall operate upon proceedings instituted in the Supreme Court of British Columbia by the Attorney General.

10. The Lieutenant Governor in Council may appoint the Superintendent of Provincial Police and any provincial police constable, or other persons, as officers to carry out and enforce the provisions of this Act.

SCHEDULE A.

*Province of British Columbia.*

This it to certify that \_\_\_\_\_, of \_\_\_\_\_, aged \_\_\_\_\_, by trade or calling a \_\_\_\_\_, is a fit and proper person to be employed as a workman under the provisions of the 'Labour Regulation Act, 1902.'

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

Signature,.....

SCHEDULE B.

*Province of British Columbia.*

I claim to be exempt from the operation of the 'Labour Regulation Act, 1902.'  
My full name is \_\_\_\_\_. My place of abode for the past twelve months  
has been \_\_\_\_\_. My business or calling is \_\_\_\_\_. I was born  
at \_\_\_\_\_, in the year \_\_\_\_\_.

C.

*Hon. Minister of Mines.*

(No. 64.)

1902.

BILL.

AN ACT TO REGULATE IMMIGRATION INTO BRITISH COLUMBIA.

WHEREAS, by the 'British North America Act, 1867,' section 95, it is enacted as follows :—

'In each province the legislature may make laws in relation to agriculture in the province and to immigration into the province, and it is hereby declared that the par-



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liament of Canada may from time to time make laws in relation to agriculture in all or any of the provinces, and to immigration into all or any of the provinces ; and any law of the legislature of a province relating to agriculture or to immigration shall have effect in and for the province as long and as far only as it is not repugnant to any Act of the parliament of Canada.'

AND, WHEREAS, it is expedient to regulate immigration into British Columbia ;

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of British Columbia, enacts as follows :—

1. This Act may be cited as the 'British Columbia Immigration Act, 1902.'
2. Whenever the word 'Magistrate' is used in this Act it shall include a stipendiary magistrate, police magistrate or justice of the peace.
3. This Act shall not apply to
  - (a) Any person possessed of a certificate in the form set out in Schedule 'A' to this Act annexed, and signed by the Provincial Secretary or the Agent General of British Columbia, or any officer appointed by the British Columbia government for the purposes of this Act, whether in or out of British Columbia.
  - (b) Any person expressly exempted from the operation of this Act by writing under the hand of the Provincial Secretary.
  - (c) His Majesty's land and sea forces ;
  - (d) The officers and crew of any ship-of-war of any government ;
  - (e) Any person duly accedited to British Columbia by or under the authority of the Imperial or Dominion or any other government ;
  - (f) Any person, the terms of whose entry into Canada have been fixed, or whose exclusion from Canada has been ordered by any Act of the parliament of Canada.

4. The immigration into British Columbia of any person, who, when asked to do so by the officer appointed under this Act, shall fail himself to write out and sign, in the characters of some language of Europe, an application to the Provincial Secretary of the province of British Columbia, to the effect of the form set out in Schedule 'B' to this Act annexed, shall be lawful.

5. It shall be the duty of every officer appointed under this Act and every person authorized by him, after being notified that any immigrant has made his way into British Columbia in contravention of the provisions of the last preceding section of this Act, to make complaint thereof to a magistrate, and it shall be competent for the magistrate to investigate and decide in a summary manner upon any such complaint made by any officer appointed under this Act, or any person authorized by him, against any immigrant for contravention of the last preceding section of this Act, and to impose a fine of five hundred dollars ; and if any such fine and costs be not forthwith paid, the same shall by and under the warrant of the convicting magistrate be enforced, levied and collected with costs, by distress and sale of the goods and chattels of the offender and shall by such magistrate be paid over to the Consolidated Revenue Fund of British Columbia ; and in default of such distress, such magistrate shall by his warrant, cause the offender to be imprisoned for any time not exceeding twelve months, unless the fine and costs and the reasonable expenses of endeavouring to collect the same be sooner paid ; provided that such imprisonment shall cease upon the offender finding two approved sureties, each in amount of two hundred and fifty dollars, that he will leave the province within one month.

6. An immigrant making his way into or being found in British Columbia in contravention of the provisions of this Act, shall not be entitled to a license to carry on any trade or calling that is subject to the legislative authority of British Columbia, nor shall he be entitled to acquire and hold land, or to any of the rights and privileges of a free miner, or to a free miner's certificate, or to exercise the franchise, and any license or franchise right which may have been acquired in contravention of this Act shall be void.



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7. Any person who, or corporation, which shall in any way assist an immigrant to controvene the provisions of this Act shall be deemed to have controvened this Act and shall be liable to the penalties imposed by section 5 of this Act upon any such immigrant.

8. The Lieutenant Governor in Council may from time to time appoint and at pleasure remove officers for the purpose of carrying out the provisions of this Act, and may define the duties of such officers, and may from time to time make, amend and repeal rules and regulations for the better carying out of the provisions of this Act.

SCHEDULE 'A.'

*Province of British Columbia.*

This is to certify that . , of , aged , by trade or calling a , is a fit and proper person to be received as an immigrant into British Columbia.

Dated at , this day of 19 .

Signature.....

SCHEDULE 'B.'

*Province of British Columbia.*

I claim to be exempt from the operation of the 'British Columbia Immigration Act, 1902.' My full name is . My place of abode for the past twelve months has been . My business or calling is . I was born at , in the year .

.....

D.

(No. 12.)

May 12, 1902.

Hon. W. C. WELLS,  
Chief Commissioner of Lands and Works,  
Victoria, B.C.

*Re Conditions attached to Timber Licenses excluding employment of Oriental Labourers.*

According to a report of the Vancouver *Daily Province* of May 12, special permits are being issued to which are attached a special condition, as follows :—'This permit is granted on the special condition that no Chinese or Japanese shall be employed in working the said limits mentioned in this permit.'

The *Province* goes on to state that this new clause was not passed by the general Act of the legislative assembly, but must have been ordered by the Lieutenant Governor in Council, and that the authority for so doing is contained in section 50 of the Land Act, Revised Statutes and amendments to the end of 1901. I see by reference to section 50 of chapter 113, Revised Statutes of British Columbia, 1897, that the Chief Commissioner of Lands and Works may grant licenses, to be called special licenses, subject to such conditions, regulations and restrictions as may from time to time be established by the Lieutenant Governor in Council, and of which notice may be given in the British Columbia *Gazette*.



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I have looked over the *Gazette* of May 1, May 8 and May 15, but have been unable to find the notice referred to. Would you kindly furnish me with the information, as follows :—

1. If these conditions regarding the employment of Japanese labourers are now attached to the timber licenses which are issued ?

2. If it is pursuant to the section 50 referred to, the chapter 113, Revised Statutes of British Columbia ? Or if a special Act has since been passed by the legislature.

3. If a notice has been given by the Lieutenant Governor in Council, could you please give me the date and page of the *Gazette* in which the said notice is contained ?

Hoping I am not giving you undue trouble, and trust you can favour me with an early reply,

S. P. SACKO,

Chancellor in Charge of His Imperial Japanese  
Majesty's Consulate, Vancouver, B.C.

THE GOVERNMENT OF THE PROVINCE OF BRITISH COLUMBIA.

LAND AND WORKS DEPARTMENT,

VICTORIA, May 27, 1902.

Hon. S. P. SACKO,

Chancellor in Charge of

His Imperial Japanese Majesty's Consulate,

Victoria, B.C.

I have the honour to acknowledge the receipt of your letter of the 22nd instant, and in reply to your inquiry I beg to say that the condition respecting the non-employment of Chinese and Japanese, attached to the special licenses to cut timber, was made pursuant to a resolution of the legislative assembly of this province now in session.

W. C. WELLS,

Chief Commissioner of Lands and Works.

THE CARIBOO GOLD FIELDS, LIMITED,

6 AND 8 EASTCHEAP,

LONDON, E.C., August, 1902.

The Right Honourable

SIR WILFRID LAURIER, G.C.M.G., P.C., &c.,

Premier and President of Privy Council,

for the Dominion of Canada.

The directors of the Cariboo Gold Fields, Limited, a mining company which holds extensive freehold and leasehold mining properties situated upon and adjacent to the bed of the well known Williams Creek, and near the town of Barkerville, in the Cariboo District of British Columbia ; in consequence of very one-sided legislation in mining matters, enacted by the legislative assembly of the province, of which the objectionable features are unnecessarily emphasized and enhanced by the interpretation placed upon the said enactments by the executive of the provincial government, acting under the pressure of the labour leagues of the province, find themselves compelled to approach the government of the Dominion of Canada, of which Your Excellency is the distinguished Premier, to beg that the government of the Dominion will exercise its great influence with the provincial government of British Columbia to obtain from them in favour of the Cariboo Gold Fields, Limited, and of all companies having similar aims and interests in the province in regard to matters not solely affecting these mining companies, but also affecting the greatest interests of a province which



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is absolutely dependent upon the encouragement of capital to develop its great mineral wealth ;

Firstly, a more favourable interpretation of the clauses of Acts which have been left by the provincial legislature to the discretion of the executive ;

Secondly, an effort on the part of the Ministers of the Executive Government to direct the future legislation of the assembly towards the same end. The directors of the Cariboo Gold Fields, Limited, in support of their earnest request to Your Excellency, as the Premier of the Dominion, in asking as above for some effective protest to the Executive Government of the province of British Columbia, beg to lay before you the following facts.

These facts are intended to show the difficulties which are unnecessarily placed in the way of mining enterprises requiring the assistance of capital, and the grievances from which this company in common with all mining companies in the province, suffers, and which unless redressed, must absolutely prevent in the future, as it has hindered in the past, the obtaining of any subscription of funds or capital in London for the development of the natural wealth of the province.

If proper encouragement is given to those who may be willing, if some chance of success is offered by wise legislation to invest their money in properly thought out schemes for working the mineral wealth which undoubtedly exists, there will be ample employment at remunerative rates for every able-bodied man desirous of work in the province ; the only difficulty will be in securing the amount of labour required at the places where it is needed.

In default of this encouragement no investor will be able to see any advantage in considering the claims put forward on behalf of the province, and without the private investor, there can be neither companies formed to develop the mines, nor wages for the casual working miner resident in the province.

It must not be forgotten in this connection, that the province of British Columbia, from its position, does not afford as in other parts of Canada, great fields for agricultural development, but that its chief resource lies in the minerals which are so widely existent throughout the whole of its northern area, and which remain from lack of capital untouched, as the risks involved in providing the funds for the needful working plant require much more inducement than has been ever offered heretofore by the legislature of the province ; for in the greater part of the province these minerals are not such as can be operated by individual miners, but require for their development the aid of modern machinery and capital.

Anything done in legislating which prevents the introduction of such capital as the province needs, can only be considered as absolutely suicidal ; it involves the interests of every resident of the province, and sooner or later the absence of capital coming into the country must be felt by every individual resident in one way or other.

That the legislative assembly should levy taxes in every possible form upon the owners and lessees of mines, as contributions towards the revenues of the province, could only be expected, and although these taxes are levied to an extent which appears to the directors to be far in excess of the interests involved, we do not propose to call Your Excellency's attention now to that grievance. Nor do we desire in this letter to especially direct Your Excellency's attention to the unsatisfactory tenure granted to the mines which require the largest outlay ; that is to say, 'placer mines,' as contrasted with the more favourable conditions granted to 'quartz mines,' which is in itself a great grievance, and much against the interests of the province. A very moderate amount of expenditure gives a right to a freehold in the latter, whilst that important privilege is denied to the 'placer miner.'

We cannot help feeling, and expressing our opinion, that it would remedy a great injustice, and also be to the manifest interest of the province, and also of the Dominion, if placer miners were placed at the least upon an equality in legislation with the owners of quartz mines.



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The special grievance which we desire at the present time to bring before Your Excellency, is confined to, and refers only to the internal working of mines in the province.

We have to pay both occasionally and annually large amounts to the revenue of the province, and yet the special legislation made at the assembly, and also further, the interpretation placed upon that legislation by the executive, hampers the development and working of our mining property to an extent which may reach the point of practically confiscating the said property, from the impossibility of working it under the prohibitory conditions arbitrarily laid down ; under the very mistaken belief on the part of the legislature, that in the oppressive enactments which shut out investments in improvements of property in the province, they are acting in the interests of their constituents, who are mostly workingmen.

We beg to recapitulate the statements which were laid before Your Excellency, by our chairman verbally, as to the position of this company, and of the difficulties it labours under, owing to the obstructive policy of the provincial government.

The Cariboo Gold Fields, Limited, was founded in 1894 ; the objects of the company being to work certain placer mines, or claims, situated on William's creek, in the district of Cariboo, British Columbia.

Such claims were purchased from vendors, who had acquired them in the usual manner under leases granted by the Gold Commissioner of the district, on behalf of the government of British Columbia ; further claims were subsequently purchased, and others were obtained by the usual methods of 'pegging out.'

Attached to those claims were 'water records,' mostly prior records from the respective sources, which gave this company power to take water from various streams and rivers in the district, and these water records were granted to the company for a term of ten years. Soon after the formation of the company, which in the first instance was composed of six or seven contributors, it was found that there existed a difficulty in obtaining money to develop the property, the chief reason being that the title granted was for so short a period that the capitalists did not consider themselves safe in taking up the shares.

It was therefore decided upon the advice of people, both in British Columbia and here in London, to apply to the legislative assembly of British Columbia for a special Act extending the period of our leases, and consolidating the whole property, including the water rights under one lease to be granted under the Act through the Minister of Mines, by the Lieutenant Governor in Council, for a period of 20 years, from the year 1896 (being the date of the Act), the said lease to be extended for a further period of 20 years, under such conditions as to annual rental as might be fixed by the Lieutenant Governor in Council. The freeholds belonging to the company were also consolidated as far as regarded current annual working, and mentioned in the schedule of the said Act.

The Act was obtained (No. 68, dated April 6, 1896), but a clause was inserted by the legislature therein to the effect that no Chinese, nor Japanese labour should be employed in or about the said mine, and that the Lieutenant Governor in Council should fix a penalty to enforce this clause when granting the lease ordered under the Act. The amount of the penalty was left to the executive.

On accepting the Act the directors of this company thought that they had to deal with a legislature who had the interests of all classes in the province at heart, and that the general interests of a country in which both capital and labour were very deficient would be the main object kept in view, and that as members of our Empire they would avoid acting harshly, or to the prejudice of those who were doing much to develop the industries of the province committed to their charge, also that if any penalty were exacted under the Act, it would be one strictly confined to the end to be attained, that being the prevention of undue competition with the available white labour by aliens.

We applied for our confirming lease in due course, and to our astonishment we



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found that the penalty for employing Chinese or Japanese labour for any work on our mine was fixed at five dollars per day for each person so employed.

Now, were it possible, or had it been possible to employ white labour only, the company would employ it, although they might feel that they should not be restricted to it. But unfortunately white labour is not always obtainable in sufficient quantity, and the company must either employ from time to time, a certain amount of Chinese labour, or else close their operations.

The pay of a Chinese labourer at Barkerville is from \$2.50 to \$3 per day, the pay of a white labourer for similar work is from \$3.50 to \$4 per day ; and the value of the work done by the white labourer is considered to be much better on the average than that done by the Chinese ; there is therefore very little temptation to the manager of a mine to engage Chinese labour, if he can obtain white labour freely ; the difference in intrinsic value would be amply covered by about 50 cents per day, per man, for the lower class of work, whilst for the higher class of work the manager would always engage white labour by preference, even at still higher rates of pay, if he could get it of the proper quality, or perhaps even if he could get it at all.

Now, if we accept the lease with the penalty attached of paying \$5 per day, per head, for every Chinese labourer employed, we shall have to pay, say \$3 wages, plus \$5 penalty, making \$8 per man per day, whenever we are obliged to employ Chinese labour because we are unable to obtain white labour for imperative work ; for we have already offered only to employ Chinese labour when the Gold Commisisoner certified that it was a necessity. We have also offered to pay a penalty of fifty cents (50 cents) per head, per day, for each Chinese labourer employed. This would be more than sufficient to deter any manager from employing Chinese labour, if white labour were attainable, as he would lose the benefit of the better work done by the white labour, without any benefit in the pay-roll.

If we are compelled to pay the penalty of \$5 per head, per day, for Chinese labour when we are unable to find white labour, making about \$8 per day for every man so employed, and solely because we cannot obtain white labour, we must stop operations.

If we stop operations, we lose our leases, or run the risk of losing them.

Up to the present we have refused to accept the lease with a greater penalty than 50 cents per head, per day ; although we have duly and regularly paid to the government the enhanced annual rental due under the Act in respect of our leases.

We are now informed that we must either accept the lease as drawn, or that our property on which we have expended about £100,000 must pass from us.

We have made various suggestions to the provincial government through either the Minister of Mines, the Attorney General, or through other members of the ministry, asking for a reduction of the penalty of \$5, and have offered as before mentioned, to accept a fine equivalent to the difference between white labour and Chinese labour.

We have approached various members of the executive government from time to time. They are so afraid that by doing their duty to the real interests of the province, that they may loose their seats in the legislature, that they prefer to suffer the country to sustain a permanent injury, and to stop progress and development, rather than to risk their individual interests, by incurring the enmity of the labour leagues, although the position taken up by the said labour leagues is unreasonable, and injurious to the welfare of the country.

To give Your Excellency one instance only to show what a great detriment to the interests of the province this matter may prove ; we would mention that this company alone has a project on foot for the working and development of another portion of our property, through a subsidiary company where an expenditure of about £50,000 in the first instance would be made ; but this question of the non-employment of Chinese labour stands in the way. All of those connected with our company having determined that until the removal of the 'boycott' they will not proceed further.

Our chairman adds that from his own personal knowledge the question is preventing the influx of capital into the province. As men of business we know the risks



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which attach to any mining enterprise; these risks we are prepared to take, but we cannot continue our business unless we have the support of those in authority.

The directors of the Cariboo Gold Fields, Limited, for the reasons enumerated above, beg Your Excellency, as the Premier for the Dominion of Canada, to exercise on behalf of your government the great influence at your command with the government of the province of British Columbia, to obtain a redress for this company of the grievances above mentioned.

For the Cariboo Gold Fields, Limited.

ERNEST COLLINS.

Chairman of the Board.

IMPERIAL CONSULATE GENERAL OF JAPAN

FOR THE DOMINION OF CANADA,

MONTREAL, QUE., Nov. 1, 1902.

Right Honourable Sir Wilfrid Laurier, G.C.M.G., P.C.,

Premier of the Dominion of Canada.

It has now elapsed several months since I had the honour of addressing His Excellency the Governor General protesting against several Bills passed by the British Columbia legislatures during last session, and which are since then rigidly enforced by the local government of the said province on all Japanese people who are coming into that province.

I have not, however, been informed of any steps taken by the Dominion government, so far, towards the disallowance of the said Bills. The Imperial government of Japan is anxious to have the said restrictions upon her people in British Columbia removed at an early date. As I had the honour of stating to you at our last interview, the government of Japan ask no more than fair and just treatment of her people in the land of her great friendly neighbour across the Pacific—Canada. They are quite agreeable to the recommendation proposed by the Royal Commission in their report, and you are already aware of the fact that the government of Japan for last few years has been taking a voluntary course in restricting her people to come to British Columbia.

I will have the honour of calling upon you before very long to convey to you the earnest wishes of the government of Japan on the matter referred to.

TATSZGORE NOSSE.

*EXTRACT from a Report of the Committee of the Honourable the Privy Council, approved by the Governor General on December 5, 1902.*

The Committee of the Privy Council have had under consideration a report, dated November 14, 1902, from the Minister of Justice, with respect to the statutes of the legislature of British Columbia, passed during the second year of His Majesty's reign (1902), and received by the Secretary of State of Canada on the 29th day of September, 1902, viz. :—

Chapter 34. An Act to regulate Immigration into British Columbia.

Chapter 38. An Act relating to the employment on works carried on under Franchises granted by Private Acts.

Chapter 48. An Act to further amend the "Coal Mines Regulation Act."

The Committee, concurring in the report of the Minister of Justice, recommend the disallowance of the said Acts.

JOHN J. MCGEE,

Clerk of the Privy Council.



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DEPARTMENT OF JUSTICE, CANADA,

OTTAWA, November 14, 1902.

To His Excellency the Governor General in Council,

The undersigned has the honour to submit his report on the following statutes of the legislature of British Columbia passed during the second year of His Majesty's Reign (1902), and received by the Secretary of State for Canada on the 29th day of September last.

Chapter 34. An Act to regulate immigration into British Columbia.

" 38. An Act relating to the employment on works carried on under Franchise granted by Private Acts.

" 48. An Act to further amend the 'Coal Mines Regulation Act'.

Chapter 34 is a re-enactment of chapter 11, 64, Victoria, of the statutes of British Columbia.

Chapter 38 is a re-enactment of chapter 14, 64 Victoria, of the statutes of British Columbia.

These statutes as originally enacted were disallowed by order of Your Excellency in Council of September 11, 1901, for the reasons stated therein, and the reasons stated in the report of the Minister of Justice of January 5, 1901.

Upon the same grounds the undersigned considers that these statutes as now re-enacted should be disallowed.

Chapter 48 amends the Coal Mines Regulation Act, Revised Statutes, 1897, by repealing rule 34 of section 82, and substituting therefor a rule in all respects the same, except that the substituted rule expressly excludes Japanese from being appointed to or occupying the positions therein mentioned. This enactment, in so far as it affects Japanese, either as aliens or as naturalized British subjects is *ultra vires* under the decision of the Judicial Committee of the Privy Council, in the case of the Union Colliery Company of British Columbia *vs.* Bryden, 1889, Appeal Cases, 580. It is also an example of discriminating legislation such as had been on several occasions during the last few years disallowed by Your Excellency's government as incompetent to a provincial legislature or upon grounds of public policy. The reasons which prevail for the disallowance of such measures are well understood.

The undersigned does not consider that any useful purpose would be served by correspondence with regard to these statutes, and he recommends that each of them be disallowed.

C. FITZPATRICK,

Minister of Justice.

AT THE GOVERNMENT HOUSE AT OTTAWA.

The 5th day of December, 1902.

*Present :*

THE GOVERNOR GENERAL IN COUNCIL.

Whereas the Lieutenant Governor of the province of British Columbia, with the Legislative Assembly of that province, did, on the 21st day of June, 1902, pass an Act which has been transmitted, chaptered 34, and intituled : 'An Act to regulate Immigration into British Columbia' ;

And whereas the said Act has been laid before the Governor General in Council, together with a report from the Minister of Justice, recommending that said Act be disallowed ;

Therefore the Governor General in Council has this day been pleased to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.



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Whereof the Lieutenant Governor of the province of British Columbia and all other persons whom it may concern are to take notice and govern themselves accordingly.

JOHN J. McGEE,

Clerk of the Privy Council.

I, Sir Gilbert John Elliot, Earl of Minto, Governor General of Canada, do hereby certify that the Act passed by the Legislature of the province of British Columbia, on the 21st day of June, 1902, chaptered 34, and intituled : 'An Act to regulate Immigration into British Columbia,' was received by me on the 29th day of September, 1902.

Given under my hand and seal at Ottawa, this 5th day of December, 1902.

MINTO.

[Seal.]

## AT THE GOVERNMENT HOUSE AT OTTAWA.

The 5th day of December, 1902.

*Present :*

THE GOVERNOR GENERAL IN COUNCIL.

Whereas the Lieutenant Governor of the province of British Columbia, with the Legislative Assembly of that province, did, on the 21st day of June, 1902, pass an Act which has been transmitted, chaptered 38, and intituled : 'An Act relating to the employment on works carried on under Franchises granted by Private Acts' ;

And whereas the said Act has been laid before the Governor General in Council, together with a report from the Minister of Justice, recommending that the said Act should be disallowed ;

The Governor General in Council has thereupon this day been pleased to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof the Lieutenant Governor of the province of British Columbia and all other persons whom it may concern are to take notice and govern themselves accordingly.

JOHN J. McGEE,

Clerk of the Privy Council.

I, Sir Gilbert John Elliot, Earl of Minto, Governor General of Canada, do hereby certify that the Act of the Legislature of the province of British Columbia, passed on the 21st day of June, 1902, chaptered 38, and intituled : 'An Act relating to the employment on works carried on under Franchises granted by Private Acts,' was received by me on the 29th day of September, 1902.

Given under my hand and seat, this 5th day of December, 1902.

MINTO.

[Seal.]

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which has been transmitted, chaptered 48 and intituled: 'An Act to further amend the "Coal Mines Regulation Act";'

And whereas the said Act has been laid before the Governor General in Council, together with a report from the Minister of Justice, recommending that the said Act should be disallowed ;

The Governor General in Council has thereupon this day been pleased to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof the Lieutenant Governor of the province of British Columbia and all other persons whom it may concern, are to take notice and govern themselves accordingly.

JOHN J. MCGEE,

Clerk of the Privy Council.

I, Sir Gilbert John Elliot, Earl of Minto, Governor General of Canada, do hereby certify that the Act passed by the legislature of the province of British Columbia on the 21st day of June, 1902, chaptered 48 and intituled: 'An Act to further amend the "Coal Mines Regulation Act",' was received by me on the 29th day of September, 1902.

Given under my hand and seal at Ottawa, this 5th day of December, 1902.

MINTO.

[Seal.]

IMPERIAL CONSULATE GENERAL OF JAPAN,

MONTREAL, December 20, 1902.

I have the honour of informing Your Excellency that I have this day received a cablegram from His Excellency the Baron Komura, His Imperial Japanese Majesty's Minister of State for Foreign Affairs, instructing me to convey to Your Excellency's government in the name of the Imperial government of Japan, their highest appreciation of the action taken by the Canadian government, upon the British Columbia legislation against Japanese subjects, and express to your government their earnest wish that the most friendly relations between Japan and Canada will continue to the best advantage of the both nations concerned.

TATSZGORO NOSSE.

*Memorandum on Mongolian Immigration.*

I wish on this occasion to take up specially the subject of Chinese and Japanese immigration. I know this is a very delicate subject, beset with peculiar difficulties, more especially from an international point of view; but we in British Columbia regard it very largely from a local point of view, as it is in that way we feel it most keenly. I wish to place our position frankly before you. It is one that has confronted the people of British Columbia for years, as you well know, and it is one that sooner or later must be dealt with by the Dominion as a whole if it is to continue to expect the cordial and loyal support and allegiance of that province to the Dominion.

The people of that province are almost a unit and unanimous in their feeling on the subject, and the government in response to the general demand of all classes has from time to time endeavoured to deal with the subject in a way which would afford relief. We are aware of the constitutional difficulties in the way of provincial legislation, but as we had petitioned the Dominion government from time to time to pass such legislation as was desired, and as so far no such legislation has been forthcoming, we felt bound in self-protection to apply the remedy ourselves. In doing so we were guided by



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government on the matter, and thought that having framed our Act on the lines of the government on the matter and thought that having framed our Act on the lines of the Natal Act, that, even though not strictly constitutional, it would have been allowed to remain in the absence of competent legislation on the part of the Dominion. It seemed to us that such a course would have relieved the Dominion government of considerable onus as a government, while, at the same time, it afforded the necessary relief to the province locally. Of course, such legislation could only apply to Japanese, as in the case of Chinese Dominion legislation, imposing a head tax, supervened. I may say under the circumstances that the government of British Columbia, any government of British Columbia will feel compelled to re-enact that legislation, which so far as it has been allowed to operate has been very efficient in carrying out what was desired. So far as this present government is concerned it feels impelled to the course not as an attitude of threat or as an act of hostility to the Dominion government, but as an assertion of its rights to self-protection.

The whole evils of Mongolian immigration are felt locally. Of the 22,000 Chinese and Japanese in Canada in 1901, as shown by the census of that year, 19,500, about, were in British Columbia. Leaving out the native Indian population, that number represents exactly one-eighth of the white population, and when you consider that practically every one of that 19,500 comes into competition as labourers with the labouring white element of the province, and are willing to work for less than one-half of what white men will work for, because, owing to their low standard of living, they can and do subsist on one-tenth of what a white man can subsist on, you can readily understand what is the feeling of the people with whom they come in contact and competition. I am free to admit that in some capacities and menial occupations the Chinese and Japanese have been, and still are, very useful; but to whatever extent they have been useful, there can be no possible doubt about the extent to which they enter into injurious competition with the labour interests of the coast, and that their number henceforth should be limited as far as the power of the Dominion can do so. If the Dominion government intends to disallow our legislation in that direction, and I am satisfied they have the right constitutionally, then we ask, in the interests of the province of British Columbia, and in compliance with the unanimous wish of the people there, to take the matter up and deal with it in a manner satisfactory to us by competent legislation. We ask that an Act on the lines of the Natal Act be passed, which, as intimated by Mr. Chamberlain, would be unobjectionable from an Imperial point of view. In the case of Chinese, there should be a sufficiently large head tax imposed to practically exclude. This is the wish of the whole people of British Columbia, who feel at the present time that their interests are being sacrificed to Dominion and Imperial interests.

The Chinese and Japanese population is on the increase in British Columbia, not only actually, but relatively, which will be shown in this table I have here :

In 1871 there were 1,250, or one-twelfth of the population.					
" 1881	"	4,350	" one-eleventh	"	"
" 1891	"	9,360	" one-tenth	"	"
" 1903	"	22,000	" one-ninth	"	"

This relative increase has taken place notwithstanding the rapid increase of the whole population.

*British Columbia's Share of the Head Tax.*

I now wish to refer to the right of the province to a greater share of the head tax collected by the Dominion. At present we get 25 per cent. I do not know why it was ever fixed at that figure ; because, if it was intended to be compensation for the local evils arising out of Chinese immigration, the province was entitled to practically all of it. On any other grounds there could have been, and was, no sense in the arrange-



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ment. In this connection, I cannot do better than quote the language contained in Mr. Dunsmuir's letter to Right Honourable Sir Wilfrid Laurier, as follows :—

‘ While only one-quarter of the revenue so derived is returned to the Provincial Treasury, practically this province has to suffer the whole of the evils arising from such immigration. What we beg to propose, and believe to be our right, is that the money remaining over after the expenses of administering the Act are met should be paid to this government. The right of the province to the present apportionment is, I understand, based upon the material effects of Chinese immigration in the province, and is regarded as a compensation for resultant local evils. If the principle of any apportionment at all is a right and just one, then the claim of the province to the whole of the revenue is equally obvious. I think that is so clear as not to admit of argument. The numbers of Chinese who find their way to eastern Canada are small, and the effect on the labour market in consideration of the largeness of the total population, is, on the aggregate, so insignificant as not to be appreciable. On the other hand, our population is so comparatively limited that any influx of Chinese is felt in a correspondingly increased ratio.

There has never been any considerable number of Chinese east of the Rockies, and consequently, the effect of their competition among a population of 5,000,000 was infinitesimal. In 1891 there were only 400 odd, and in 1901 only 2,500, or about one-2,200th of the population.

If you deny us the right to exclude these people, who enter into competition in every way with our own labouring classes, and add very materially to the cost of administering justice in the country, and at the same time collect a revenue for the benefit of the Dominion in the way of head tax, you are doing a manifest injustice to the province. You practically tie our hands, impose a license fee as the price of their entering into competition with our people, and then divert three-fourths of the revenue to the treasury of the Dominion. I do not know how it strikes you, but it strikes me as forming a very grave grievance on our part.

A great many people are inclined to think that the Chinese and Japanese are a very harmless, industrious people, who give no trouble. They are certainly very industrious, but I wish to tell you for your information that during the year 1902 there were in British Columbia 400 convictions of Chinese and Japanese for various infractions of the law. This, out of a population of 19,500, is a very large percentage, more particularly when you know that a Chinaman is about the hardest kind of an individual to convict in a court of law, and a large number more escape. It involves a very serious outlay on the part of the province each year.

In round numbers, since the Chinese Restriction Act was in force, the Dominion government has collected \$1,600,000, of which there has been returned \$400,000 to the province. We claim that at least 75 per cent of that revenue should go to the province. Of late years, the Legislature of British Columbia has repeatedly asked for such a percentage of Chinese revenue, and I have yet to meet a man or read an argument seriously opposed to our absolute right to it.

EDWD. GAWLOR PRIOR,

Premier.